

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT ROANOKE, VA
FILED
August 09, 2024
LAURA A. AUSTIN, CLERK
BY: s/A. Beeson
DEPUTY CLERK

KEITH EDWARD MOSS,)	
Petitioner,)	Case No. 7:24-cv-00302
)	
v.)	
)	By: Michael F. Urbanski
MERRICK GARLAND, <u>et al.</u> ,)	Senior United States District Judge
Respondents.)	

MEMORANDUM OPINION

Keith Edward Moss, a Virginia inmate proceeding pro se, commenced this action by filing a petition for writ of mandamus under 28 U.S.C. § 1361. Moss seeks to compel the Attorney General of the United States and the United States Attorney for the Western District of Virginia to prosecute various state and local officials for allegedly conspiring to violate his federal constitutional rights. For the following reasons, the petition is **DENIED**.

Federal district courts have jurisdiction in “any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.” 28 U.S.C. § 1361. “Mandamus relief is a drastic remedy and should be used only in extraordinary circumstances.” In re Pizzuto, 475 F. App’x 468, 468 (4th Cir. 2012). A party seeking a writ of mandamus must show that “his right to the issuance of the writ is clear and indisputable” and that he “has no other adequate means to attain the relief he desires.” Media Gen. Operations, Inc. v. Buchanan, 417 F.3d 424, 433 (4th Cir. 2005).

Moss is unable to show that he has a clear and indisputable right to the requested relief. The Supreme Court has held that “a private citizen lacks a judicially cognizable interest in the prosecution or nonprosecution of another,” Linda R. S. v. Richard D., 410 U.S. 614, 619

(1973), and that the federal government “retains broad discretion as to whom to prosecute,” Wayte v. United States, 470 U.S. 598, 607 (1985). Accordingly, the relief sought by Moss is “not available by way of mandamus.” In re Pizzuto, 475 F. App’x 468–69 (denying a petition that sought to compel the investigation and prosecution of several individuals); see also In re Givens, 407 F. App’x 699, 699 (4th Cir. 2011) (same).

For these reasons, Moss’s petition for writ of mandamus is **DENIED**. An appropriate order will be entered.

Entered: August 9, 2024

A handwritten signature in blue ink, appearing to read 'Mike Urbanski', is positioned to the left of the typed name and title.

Mike Urbanski
Senior U.S. District
Judge
2024.08.09 12:23:11
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Michael F. Urbanski
Senior United States District Judge